

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CURTIS MICHAEL LEWIS,

Petitioner,

v.

Case Number 2:12-CV-13128
Honorable Nancy G. Edmunds

STATE OF MICHIGAN,

Respondent.

**OPINION AND ORDER DISMISSING THE PETITION FOR A WRIT OF HABEAS
CORPUS AND DENYING A CERTIFICATE OF APPEALABILITY**

The Court has before it Curtis Michael Lewis's pro se petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254. Petitioner is a state prisoner serving a fifteen-to-twenty year sentence for his Jackson Circuit Court conviction of armed robbery. Petitioner initiated this action by filing a "Motion to Extend Time for Filing a Habeas Petition." The motion did not state any basis for the filing of the petition or give any reason for the need of an extension. Petitioner also failed to file an application to proceed in forma pauperis or the \$5.00 filing fee.

As a result, the Court issued an order on August 1, 2012, directing Petitioner to file an application for habeas relief complying with the requirements of Rule 2(d) of the Rules Governing § 2254 Cases as well as an IFP application or the filing fee within thirty days.

Petitioner has not filed an application for habeas relief, nor has he paid the required filing fee or submitted an application to proceed in forma pauperis. The time for correcting these deficiencies has elapsed. Accordingly, the Court **DISMISSES WITHOUT PREJUDICE** the petition for a writ of habeas corpus. Petitioner may submit a new habeas petition with payment of the filing fee or an in forma pauperis application.

Before Petitioner may appeal this decision, a certificate of appealability must issue. See 28

U.S.C. § 2253(c)(1)(a); Fed. R. App. P. 22(b). A certificate of appealability may issue "only if the applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). When a federal court denies a habeas claim on procedural grounds without addressing the merits, a certificate of appealability should issue if it is shown that jurists of reason would find it debatable whether the petitioner states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling. *See Slack v. McDaniel*, 529 U.S. 473, 484-85 (2000). Reasonable jurists could not debate the correctness of the Court's procedural ruling. Accordingly, the Court **DENIES** a certificate of appealability.

IT IS SO ORDERED.

s/Nancy G. Edmunds
Nancy G. Edmunds
United States District Judge

Dated: September 24, 2012

I hereby certify that a copy of the foregoing document was served upon counsel of record on September 24, 2012, by electronic and/or ordinary mail.

s/Carol A. Hemeyer
Case Manager